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Remarks

This is responsive to the Office Action mailed May 20, 2005. A petition for a three (3) month extension for responding to the Office Action and the appropriate fee are filed herewith.

The allowance of claims 100 and 101 and the indication of allowability of claims 53-60, 62, 64, 87, 94-96, 106 and 106, are noted with appreciation.

Allowable claims 53, 87, 94 and 95 have been rewritten in independent form and those claims along with claims 54-60 and 96 now should be allowed.

The applicant proposes to defer amending respective allowable dependent claims 62 and 64 at this point in view of the large fee required for added independent claims.

Claims 84 and 88 have been amended to correct typographical errors therein.

Claims 68-76 and 108-111 have been canceled herein without prejudice. Claims 1-43 previously were canceled without prejudice.

The application now includes claims 44-67 and 77-107.

As for the rejection of claim 44 on the grounds of obviousness type double patenting, the applicant would propose filing a terminal disclaimer when all other issues have been resolved.

Withdrawal of the rejection of claims 97 and 98 under 35 U.S.C. 102(b) in view of Gilham 4,934,846 respectfully is requested. Although Gilham describes at column 2, lines 8-29 machine reading identification data and printed encryption data block, Gilham does not disclose the step of claims 97 and 98 of "determining whether an encrypted

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code is present." Therefore, Gilham does not anticipate the claimed subject matter of claims 97 and 98.

Withdrawal is respectfully requested of the rejection under 35 U.S.C. 103(a) in view of Storch in view of Gilham of claims 44-52, 65-67, 99 and (questionably 106 and 107—it being noted that claims 106 and 107 also were objected to and indicated allowable if amended to include the subject matter of the claim(s) from which they respectively depend). As the Examiner has acknowledged, Storch does not disclose encrypting the combination code. Storch mentions using a secret algorithm, more specifically, "...to append to a serial number one or more distinct portions that conform to one or more respective secret codes." (Storch, column 16, lines 10-12.) That Storch may use a secret code does not in any way suggest encrypting a combination code that is composed of a random portion and a non-random portion. Moreover, Gilham discloses encrypting a code, but not a combination code. There is no disclosure or suggestion in either Storch or Gilham of encrypting a combination code.

Furthermore, with respect to claims 49 and 51, for example, neither Storch nor Gilham disclose the step of determining whether the decrypted code contains the non-random portion of the combination codes or comparing the decrypted code to the non-random portion of the combination codes, respectively.

As for the subject matter that is particularly pointed out and distinctly claimed in claim 99, Storch does not encrypt, and Gilham checks the entire number, not part. In contrast, claim 99 points out encrypting the combination code and determining whether the non-random label portion is found and/or is correct.

Withdrawal is respectfully requested of the rejection under 35 U.S.C. 103(a) in view of Storch in view of Gilham and Venkatesan et al., US 6,209,093, of claims 61, 63, 77-86, 88-93 and 102-105. The deficiencies in Storch and Gilham are discussed above. Venkatesan does not make up for those deficiencies. Claims 61 and 63 point

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out that the non-random portion of the combination code includes a secret portion that is encrypted (and, with regard to claim 63, that secret portion contains tracking information). Independent claims 77, 84, 90 and 103 include, respectively, recitations pertaining to identifying items, preparing authenticating indicia, checking authentication of an item and tracking employing or preparing encrypted combination codes that include a random portion and a non-random portion with a secret encrypted portion. Additional features are pointed out in claims that depend, respectively, from such claims 77, 84, 90 and 103. In contrast, Storch mentions using a secret algorithm, more specifically, "...to append to a serial number one or more distinct portions that conform to one or more respective secret codes." (Storch, column 16, lines 10-12.) That Storch may use a secret code does not in any way suggest encrypting a combination code that is composed of a random portion and a non-random portion. Moreover, Gilham discloses encrypting a code, but not a combination code. There is no disclosure or suggestion in either Storch or Gilham of encrypting a combination code. Venkatesan discloses encryption, but Venkatesan does not disclose encrypting a non-random portion of a combination code (that includes both a random portion and a non-random portion and wherein the non-random portion includes a secret portion that is encrypted), and also encrypting the combination code. For the above reasons there is no motivation in any of the three applied references to combine them and those references do not make obvious the claimed combinations.

As for claims 104-107, these claims are allowable for the above reasons.

Moreover, although claims 104-107 were rejected at page 12 of the Office Action, claims 106 and 107 were indicated as allowable at page 13 of the Office Action and as only objected at line 7 of the Office Action Summary page of the Office Action. Clarification is respectfully requested.

In view of the above, it is believed that all claims in the application now are allowable. If the Examiner feels that a telephone interview or a personal interview

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would be helpful to expedite favorable consideration of this patent application, he is respectfully requested to contact applicant's attorney at (216) 621-1113 Extension 115.

It is believed that no fee is required for this filing, except for the extension fee mentioned above. However, if a fee is required, please charge the fee to deposit account No. 18-0098, Order DOLJP103WOUSA.

Respectfully submitted,

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By


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CERTIFICATE OF TRANSMISSION under 37 CFR 1.8

I hereby certify that this correspondence (along with any paper referenced as being attached or enclosed) is being facsimile transmitted to 571/273-8300 at the U.S. Patent and Trademark Office on the date below.

Date:

Nov. 21, 2005


Warren A. Sklar

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